

**II. Claim Rejection - 35 U.S.C. § 102(b)**

The Examiner has rejected claims 1-5 under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 5,341,818 (“Abrams”). The Examiner asserts that Abrams anticipates all of the limitations recited in these claims. Applicants respectfully disagree and traverse this rejection for at least the following reasons.

Claim 1 recites, *inter alia*, “a superelastic member . . . having a first section with a first set of properties and an adjacent second section having a second set of properties which have been altered from the first set of properties.” Claim 1 further recites an elongated proximal member to which the superelastic member is secured.

The Examiner asserts that claims 1-5 are anticipated by Abrams for the following reasons, cited in their entirety.

Abrams et al. discloses a guiding member having a proximal portion (11) secured to the distal portion (12, 13) at its distal end and a distal portion of superelastic material (Col. 6, lns. 19-54) and a distal portion of that segment having altered properties (Col. 7, lns. 19-54). Office Action at 2.

To anticipate a claim, the reference must teach every element of the claim. M.P.E.P. § 2131; *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”). Abrams does not anticipate claims 1-5 because the reference does not teach every element of the claims.

Specifically, Abrams does not teach a superelastic member “having a first section with a first set of properties and an adjacent second section having a second set of properties which have been altered from the first set of properties.” Abrams discloses a distal portion (12) formed substantially of superelastic alloy material, but Abrams is silent as to a superelastic member

having a first section with a first set of properties and an adjacent second section having a second set of properties which have been altered from the first set of properties. *See* Abrams at col. 7 at lines 15-62. Abrams discloses that the superelastic portions of the guiding member are cold worked and heat treated. Abrams at col. 7, lines 15-21. While Abrams teaches that the superelastic portion of the guiding member is processed, Abrams is silent with respect to the alteration of properties of *individual sections* within the superelastic portions. Therefore, Abrams does not teach a superelastic member having “a first section with a first set of properties and an adjacent second section having a second set of properties which have been altered from the first set of properties” as required by the present claims.

Furthermore, as Abrams is silent as to altered properties in sections of the superelastic member, Abrams does not disclose explicitly or implicitly the specific limitations recited in any of claims 2-5.

Accordingly, Abrams does not teach every limitation recited in the presently pending claims. Therefore, Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 102(b) for at least the foregoing reasons.

### **III. Information Disclosure Statement**

On page 3 of the Office Action, the Examiner stated, “Applicant is requested to send a proper IDS form so that the references may considered [sic] and of record.” An Information Disclosure Statement was filed on August 15, 2001, considered by Examiner Wingood on June 29, 2002, and included in the Office Action dated July 2, 2002. Because the Information Disclosure Statement filed August 15, 2001, is the only Information Disclosure Statement filed

in the present application, Applicants respectfully request clarification of the statement in the Office Action.

**IV. Conclusion**

In view of the foregoing remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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